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E-FILED 10/19/09

**UNITED STATES BANKRUPTCY COURT**

**DISTRICT OF NEVADA**

In Re  
**CLARK, ANDREW & LOIS**

Case No. BK-S-08-21586-LBR  
Chapter 13  
TRUSTEE: RICK YARNALL

Hearing Date: OCTOBER 21, 2009  
Hearing Time: 10:30 a.m.

Debtor

**OPPOSITION TO MOTION FOR RELIEF FROM AUTOMATIC STAY**

Comes Now, Debtors, Andrew & Lois Clark, by and through their attorney, David M. Crosby, respectfully requests this Court to deny the Motion for Relief From Automatic Stay filed by U.S. BANK HOME MORTGAGE , by and through its attorney, Gregory L. Wilde, of the law firm of Wilde and Associates.

**STATEMENT OF FACT**

Debtor is the owner of the subject property described as 3549 Fort McHenry Drive, Las Vegas, NV 89122. Debtors filed a Chapter 13 Bankruptcy on October 2, 2008.

Debtor respectfully requests that the Motion for Relief be denied or at minimum, continued until a payment history is provided by U.S. Bank Home Mortgage that will allow debtor time to compare the payments made post-petition by debtor with the payment history. Should it be found that debtors are delinquent post-petition, debtors hereby request they be allowed to enter into an Adequate Protection Order for any post-petition arrears plus attorney fees and costs incurred with the filing of said motion.

1                           **POINTS AND AUTHORITIES**

2                           11 USC Section 362 (d) (1) states that the Court may terminate, modify or  
3 condition stay

4                           "for cause, including the lack of adequate protection of an  
5                           interest in property of such party in interest;---"

6                           ... 11 USC Section 362 (d) (2) the Court may terminate, modify or condition a stay

7                           "with respect to a stay of an act against property under  
8                           subsection (a) of this section, if-

- 9                           (A) the debtor does not have an equity in such  
10                          property AND  
11                           (B) such property is not necessary to an effective  
12                          reorganization

13                           **CONCLUSION**

14                           THEREFORE, based upon the facts and the points and authorities set forth  
15 herein, and any arguments heard at the hearing on this matter, Debtors' request that  
16 the Motion for Relief from the Automatic Stay be denied or at minimum, the hearing  
17 be continued until a payment history is provided by U.S. Bank Home Mortgage that will  
18 allow debtor time to compare the payments made post-petition by debtor with the  
19 payment history. Should it be found that debtors are delinquent post-petition, debtors hereby  
request they be allowed to enter into an Adequate Protection Order for any post-petition arrears  
plus attorney fees and costs incurred with the filing of said motion.

20                           DATED this 19th day of October, 2009.  
21

22                           **CROSBY & ASSOCIATES**

23  
24                           By: /s/ David M. Crosby  
25                           DAVID M. CROSBY, ESQ.  
26                           Nevada Bar No. 003499  
27                           711 S. 8<sup>th</sup> St.  
28                           Las Vegas, Nevada 89101  
                                 Attorneys for Debtor

1  
2                   **CERTIFICATE OF MAILING**  
3

4                   I, the undersigned, an employee of the Crosby & Associates, hereby certify that  
5 on the 19th day of October, 2009, I deposited in the United States Mail, first class mail,  
6 postage pre-paid, and/or faxed a true and correct copy of the **Opposition to Motion**  
**for Relief from Automatic Stay** to all parties listed below:  
7  
8

9                   Rick Yarnall  
10                  701 S. Bridger Avenue #820  
11                  Las Vegas, NV 89101  
12                  (702) 853-4500/fax 853-4513

13                  Andrew & Lois Clark  
14                  3549 Fort McHenry Drive  
15                  Las Vegas, Nevada 89122

16                  Gregory Wilde, Esq.  
17                  Wilde & Associates  
18                  208 S. Jones Blvd.  
19                  Las Vegas, Nevada 89107  
20                  (702) 258-8200/fax 258-8787

21                  /s/ Cindy L. Kangas

22                  An employee of  
23                  **CROSBY & ASSOCIATES**